

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**M.A. NO. 92 of 2015, M.A. NO. 95 of 2015, M.A. NO. 96 of 2015, M.A. NO. 112 of
2015, M.A. NO. 116 of 2015, M.A. NO. 152 of 2015, M.A. NO. 153 of 2015, M.A.
NO. 184 of 2015, M.A. NO. 185 of 2015 & M.A. NO. 245 of 2015**

**In
Original Application No. 73 of 2014
And
M. A. NO. 154 OF 2015
IN
Original Application No. 13 of 2014**

IN THE MATTER OF :

**All Dimasa Students Union Dima Hasao Dist. Committee
Vs.
State of Meghalaya & Ors.
And
Impulse NGO Network Vs. State of Meghalaya & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Original Application No. 73 of 2014

**Present: Amicus Curie: Mr. Raj Panjwani, Sr. Adv. with Mr. Aagney Sail,
Adv.
Ms. Shaurya Sahay Applicant in M.A.152 &
153/2015
Mr. Rajiv Dutta, Sr. Adv. along with Mr.
Saurabh Sharma, Adv. Applicant in MA No. 96
of 2015
Respondent No. 2: Mr. Tayenjam Momo Singh, Adv. for MSPCB
Respondent No. 5: Ms. Panchajanya Batra Singh, Adv. MoEF & CC
Respondent No. 10: Mr. H.S. Thangkhien, Sr. Adv. along with Mr.
Philemon Nongbri Advs. in M.A. No. 92/15
Respondent No. 11 : Dr. O.D.V. Ladia, Sr. Adv. with Mr. Philemon
Nongbri, Adv.
Mr. R. Biswas, Adv. in M.A. No. 955 OF 2015 &
Mr. A. Paul, Adv., in M.A. No. 185 of 2015
Mr. Vijay Panjwani, Adv. for Mr. Thomas
Nongbri and Mr. S.K. Rai, Advs. in M.A. Nos.
111 of 2015 & 112 of 2015**

Original Application No. 13 of 2014

**Present: Amicus Curie: Mr. Raj Panjwani, Sr. Adv. with Mr. Aagney Sail,
Adv.
Ms. Shaurya Sahay Applicant in M.A.152 &
154/2015
Respondent No. 2: Mr. Tayenjam Momo Singh, Adv. for MSPCB**

Date and Remarks	Orders of the Tribunal
Item No. 01-02 March 25, 2015	Rampant, illegal, unscientific and life threatening mining activity, particularly Rat hole mining is going on in the State of Meghalaya for years now. Truly, it was unregulated, uncontrolled and unchecked. This has <i>inter-alia</i> the following adverse impacts:-

(a) It causes serious pollution of river and water bodies due to acidic nature of the effluent besides causing environmental degradation and environmental hazards having injurious impacts upon human health.

(b) Adverse impacts on ecology and environment of the entire State, particularly in the mining areas has brought about climate change. Most significantly, it has resulted in deaths of the young generation involved in the mining activity. In fact, it was the death of 15 young labourers in the mine that had persuaded the High Court of Gauhati to take *suo-moto* action. It was this petition that has been transferred to the Tribunal. This Application has been numbered as Original Application 73 of 2014 (Suo-Moto) and urges stoppage of illegal mining activity in the State of Meghalaya, particularly in district Jaintia Hill forthwith and for appointment of a committee to carry out the assessment of the impact of illegal mining and determination of the damage to the environment.

In the above circumstances, the Tribunal, vide its order dated 17th April, 2014 had directed the authorities to ensure that Rat hole mining and illegal mining is stopped forthwith throughout the State of Meghalaya, as well as the illegal transportation of coal does not take place. After notice to all concerned, the Tribunal had also constituted a committee. It was noticed that pH of mine effluent/mine drainage remained very low and was found less than 3 in all cases out of the 21 samples analysed.

It was also noticed that the effluent from the mines, was being pumped out via PVC-Plastic pipe into the tank and thereafter discharged into the nearest stream or river. These details have been noticed by the Tribunal in its order dated 09th June, 2014.

We also noticed that transportation of coal was being done in the most unscientific manner, openly, without any check or precaution for protecting the environment. To put it simply, the transportation of coal was in flagrant violation of environmental norms. This resulted in passing of the injunctive order by the Tribunal. A specific report had also been called for in relation to the pollution of rivers/streams and groundwater in and around the pockets where mining activity was being carried out. The committee was expected to submit a report in relation to damage done to the environment and ecology of the area and to public health, i.e., the health of people who were living around the mines and were consuming the highly polluted water for their day to day needs as well as the diseases suffered by them.

Vide these orders, number of directions were issued, including those for installation of weighbridges, adoption of appropriate measures for environmental protection during transportation and the committee constituted was to recommend and frame the guidelines for transportation of the coal which has already been extracted and was lying around the mines in question.

Before we proceed further, it will be significant to note that the incident of 06th July, 2012 was in relation to 30 labourers who were trapped in the Rat hole mine in

South Garo Hills, out of which 15 could escape mine flooding and 15 others reportedly died, leading to registration of crime punishable under section 304A of the Indian Penal Code.

In furtherance to the order of Tribunal, the appointed committee had conducted inquiry and found that huge quantity of extracted coal was lying near the coal mines. It further noticed that there was serious variation in the quantity of coal declared to be extracted by the mine owners and the physically assessed quantity of extracted coal by the mine owners. It was stated that 36,59,152 MT of coal had been declared to be extracted by the mine owners and upon assessment by the committee it was found to be 37,36,325 MT. It was also pointed out that the extracted coal declared by the miner, which could not be verified, weighed 87,85,147 MT. The value of the extracted coal was stated to be approximately Rs. 18,000 crore. On subsequent dates, the committee informed the Tribunal that on physical verification 6.3 MT of extracted coal valued at Rs. 3078 crores is lying in the State of Meghalaya and was expected to fetch royalty of approximately Rs. 400 crore.

During the course of arguments before us, we found from the statement filed on behalf of the State that the State of Meghalaya has permitted 17,83,359 MT coal to be transported in terms of the directions of the Tribunal and recommendation made by the committee. If the above quantum of coal is taken as correct at its face value and is multiplied by approximate value of coal per metric tonne as earlier determined by the State and as mentioned in the

report, the value of the total coal comes to Rs. 35,67,18,000, which means that out of the coal which is worth more than Rs. 3000 crore found to be lying, only coal which is worth Rs. 356 crore approximately has been permitted to be transported leaving the balance of coal worth Rs. 2644 crore.

The State of Meghalaya has promulgated a mining policy of 2012, which does not deal with rat hole mining, but on the contrary, deprecates it. Considering its illegal, unscientific and unregulated character and its obvious adverse impact on various facets of environment, life and even economy of the state, we had through our various orders, directed the committee to be constituted and the State Government to formulate and declare mining policy and prepare guidelines for the State of Meghalaya which was expected to deal with all the aspects of mining without exception. The formulation of such policy and guidelines for the State has yet to see the light of the day.

Some of the interested parties had filed a Special Leave Petition (SLP) along with Statutory Appeal before the Hon'ble Supreme Court of India against the interim order passed by the Tribunal. The Appeal preferred (D.No. 2198 of 2014) came to be dismissed vide order dated 02nd February, 2015 passed in SLP Appeal titled as LBER LALOO Vs. ALL DIMASA STUDENTS UNION & ORS. However, the Hon'ble Supreme Court of India vide the said order observed that the Applications before the Tribunal should be disposed of expeditiously.

It is undisputable that orders of the Tribunal have been violated without exception. The transportation of

coal has continued without taking any environmental protection measures and without strictly complying with the guidelines framed by the committee and the State of Meghalaya. The illegal mining has been going on despite specific and complete prohibitory orders. The State Government has failed to check illegal mining effectively and has also not framed the mining policy, mining plan and the guidelines as directed under the orders of the Tribunal.

The violations are not only apparent from the record but find due support from the facts placed on record by the State Government itself. The State Government has found as many as 73 cases of illegal transportation of coal in one district. In furtherance thereto, 15 more case of specific violation of the NGT orders had already been registered by the State Government. The total number of vehicles sealed are 87 in relation to one district i.e. East Jaintia Hill. As per the statement furnished by the State in all the 11 districts of the State of Meghalaya, 308 cases of violation have been registered and a total number of 605 trucks and 2675.63 Tonnes of coal has been seized in addition to 40 Bags of coal. There are apparently no plans/guidelines framed by the State as of now. As far as the violation by individuals before us are concerned, we will deal with them separately. However, as far as State is concerned, as regards non-compliance and its inability to execute and comply with the directions of the Tribunal, the following *inter-alia* primary grounds are submitted

- (a) lack of forces to carryout counter insurgency operations and implementation of NGT orders.

(b) The State Government proposes to approach the Central Government for claiming an exemption, in terms of para 12 A (b) of the VIth Schedule of the Constitution of India and from the condition of previous approval of the Central Government under the Mine and Mineral Rule Regulation Act, 1957 in respect of reconnaissance, prospecting and mining of coal and from the operations of Coal Mines Nationalization Act.

We find no merit in either of them. Firstly, a year or more has lapsed since the directions and orders have been passed by the Tribunal and at no point of time, except now, that the State Government has put forward this ground of its incapability for compliance of the order of the Tribunal. The orders of the Tribunal are required to be enforced without exception particularly when such directions relate to environment and human life which are of fundamental value and are, in fact enshrined as the Fundamental Right in Part III under Article 21 of the Constitution of India. Despite this view, we have permitted the State Government to approach the Secretary, Home, Coal and MoEF and/or to the concerned Authority in the Central Government to request for deployment of appropriate forces so that not only the orders of the Tribunal are complied with, but property of the State and environment is protected and no illegal and unscientific mining contrary to law is permitted to be carried on in the state.

We are informed that the Secretary, Mine and Geology, State of Meghalaya, met the Additional Secretary

and Joint Secretary in the Ministry of Home, who has asked for appropriate proposals to be sent to him for his consideration. In light of the above, we pass the following directions.

1. The Additional Secretary, North East in the Ministry of Home, Central Government shall, within a period of two weeks from today, hold a meeting with the Chief Secretary of the State of Meghalaya and other concerned Authorities and consider the proposal of the State of Meghalaya for deployment of appropriate force to ensure compliance of orders of the Tribunal and protection of the Environment and Ecology, particularly water bodies as recorded in various orders of the Tribunal. We are hopeful, that the decision will be taken objectively and in the interest of public at large.

2. Without hesitation, we record our disapproval, for the said conduct of the State of Meghalaya in not formulating appropriate policy and guidelines despite orders of the Tribunal, even after lapse of a period of one year,. The mining in the State cannot be permitted till the time such policy and mining plan/map is prepared by the State Government. This would be the requirement whether the mines are private or State owned and/or whether the State is granted exemption by the Central Government/Parliament in accordance with the law or not. Neither of this can be raised as a defense for permitting illegal, unscientific and unregulated mining in the State which would not only endanger

the ecology, environment, water bodies in the area, but, would be fatal to human life also. Thus, in this regard we issue the following directions.

The Special Secretary/Additional Secretary of Ministry of Coal and MoEF would be approached by the Chief Secretary of the State of Meghalaya for any appropriate legal framework for exemption as they deem fit and proper but in any event this committee shall ensure that the State of Meghalaya prepares and places before both the Special Secretary and Additional Secretary of the Government of India, a road map/policy of mining and guidelines for carrying out mining activity in the State of Meghalaya within 6 weeks from today. This would be examined and appropriate decision would be taken collectively by the State of Meghalaya and Central Government. We make it clear and as already directed in our order, we would be able to permit the mining activity in the State only when such plan/guidelines are placed before the Tribunal and are enforced in the State of Meghalaya.

As it is practical and admitted case before us that illegal mining, particularly Rat hole mining, is still being carried on in various parts of the State of Meghalaya, despite clear orders issued by the Tribunal, which have not been even disturbed on Appeal by the Hon'ble Supreme Court of India.

We may notice that vide its order dated 29th January, 2015, the Tribunal had appointed Local Commissioners to inspect the mining sites and

transportation activity in the State of Meghalaya. Three Commissioners had collectively inspected the site in the areas of East Jaintia hills of Meghalaya and have made serious observations in regard to the violation of the orders of the Tribunal. It has been specifically recorded that they found fresh coal extracted and being carried in the garb of transportation. *Inter-alia* they noticed that top most layer was fresh and dark in color. They filed various photographs in relation to various sites. Photographs No. 10 and 13 clearly depict that rat hole mining is still being carried on in the most unscientific impermissible manner, in violation of environmental norms and in the manner injurious to human health. The videography has been prepared and filed by the Local Commissioners. We may refer to abstract of the joint report filed by the Local Commissioners as under:

“The first instance of open violation of the National Green Tribunal’s order banning rat-hole mining was witnessed at Kongong village, East Jaintia Hill District, where newly extracted coal were being unloaded from trucks to replenish the existing stock. Upon inquiry the laborers’ disclosed that the coal was brought in from the mines located in Krem Koin village and Wah Shyrpi village (mines owned by Mr. Sarki Phawa and Prakash Phawa – locations not known). Meanwhile, one of the concerned Mine Owner, Mr. Sarki Phawa somehow got wind of the presence of the Local Commissioners’ in his area and drove up to the site in his 4x4 Jeep (Maruti Gypsy ML-05K-0923 refer

photo file no.3. Upon further enquiry with him as to why the fresh stock of coal from the two trucks – bearing registration No. MA-04-A-9250 and ML-04-B-5502 (**photo file no.2**) was being unloaded at his storage site. He defended himself by stating that he had deposited revenue with the Directorate of Mineral Resources for 2000 MT of coal in advance however he was unable to transport the stated quantity he had already paid for before the deadline expired. His answer to the above question posed by the local commissioners was evasive and unsatisfactory.

In another instance Local Commissioner J.B. Kharbhih spoke to one Mr. Prakash Phawa over phone. He revealed that one Mr. Nip Dkhar another mine owner known to him was not able to transport the remaining 322 MT of coal he paid royalty for to the Directorate of Mineral Resources. He too ran out of time during the temporary relaxation of the ban to transport the same. By observing this trend and the evasive explanations it is strongly suspected that royalty to the State was paid not so much only on the declared stock of extracted coal but also on the quantity of coal yet to be extracted and hence mining activity continues in violation of the **Hon'ble Natioal Green Tribunal's** order banning rat-hole mining. There is a hunch of a sinister practice-specially with regard to declaration and assessment of extracted coal, payment of royalties, acquiring of challans and

transportation of coal – the complete understanding of which is beyond the scope of the local commissioners at this stage.

*Homogenous quantities of coal stocks were sighted along the storage sites in Wapung, Mookhep, 1kilo, 4 kilo and Sutnga road of East Jaintia Hills District. The top layers were observed to be fresh and dark in color. Several trucks were also sighted unloading **(refer photo file no. 8 and video file nos. 4 & 5)** coal at the storage sites.”*

It is needless to point out that this is in utter disregard and violation of the orders of the Tribunal. A specific case of violation by the private party has also been brought to our notice. Even the weigh bridges have not been installed and made operative in the State in regard to which various mine owners have raised specific grievances and filed applications before us.

Normally for such gross violations and incapability of the State to execute and comply with our orders, we would have banned even the transportation of the coal in the entire state. However, keeping in view the fact that storage of coal itself is likely to cause serious environmental degradation and pollute the ground water and water bodies which are already exceeding the prescribed parameters and keeping in mind the principle of Sustainable Development and Principle of Polluter Pays contemplated under Section 20 of the NGT Act and the economic growth of the state, we would permit transportation of the coal subject to and in compliance with the conditions stated hereinafter. At this stage we

direct as follows:

- (a) We direct the Director General of Police, Chief Secretary, concerned Secretary of the State Government, all the district Magistrate, SPs of the respective districts to ensure the enforcement of the orders of the Tribunal in regard to complete prohibition of illegal, unscientific and unregulated rat hole mining in the State of Meghalaya without delay and default.

If any case of violation is brought to our notice henceforth, we will be compelled to take action against these officers personally in accordance with law including directing them to pay compensation for degradation of the environment and ecology of the area falling under their jurisdiction.

- (b) The State of Meghalaya shall prepare the mining map, policy and guidelines within six weeks from today and is free to take assistance of the committee constituted by the Tribunal.

- (c) Transportation of the coal shall be permitted strictly in accordance with the guidelines prepared by the committee, orders of the Tribunal and all environmental protection measures for carriage of such coal.

All the 12 weigh bridges shall be made operative within four weeks from today. We are informed that vide its notification dated 24th March, 2015 the weigh bridge at Mandi Hati, East Jaintia Hills District has become operative. It is suggested on behalf of the State that the weigh bridge at Dhalu, which is not operative, is near to

another exit point at Gasuapara and can meet the need of the transportation at the point of Dhalu. We do not accept this contention. A separate independent weigh bridge shall be provided at Dhalu.

It is further pointed out that at Garam Pani, the Government had invited tenders for manning and installing weigh bridge, but none has responded. We again see this as no ground for the Government not to be proactive and install and manage the weigh bridges itself at Garam Pani. Let this now be done positively within four weeks from today. In other words, all the 12 independent weigh bridges shall be made operative within four weeks from today without default and exception, whatever be the reason.

As far as transportation of coal is concerned, various applicants have come up before the Tribunal on the ground that they had paid the royalty but could not transport because of non-availability of weigh bridges and for such other allied reasons. According to them, they have missed an opportunity for carrying on their business which they are entitled to and were even permitted under the orders of the Tribunal. In view of this, we direct as follows:

- (1) All, whether before the Tribunal or not, persons, owners of the mines and or in any way interested thereto in accordance with law can pay the royalty for carriage of already extracted coal within 3 weeks from today;
- (2) Thereafter, the State would not accept any royalty without specific orders of the Tribunal.

(3) Within six weeks or by 31st May, 2015 whichever is earlier, the extracted coal for which the royalty had already been paid can be permitted to be transported by the State of Meghalaya strictly in accordance with the guidelines laid down by the committee, approved by the Tribunal and the orders of the Tribunal passed from time to time.

(4) All the weigh bridges shall maintain due computerized record of all the coal that is permitted to be transported from any of the 12 approved points in the State of Meghalaya. The computerized record shall be maintained and would be subject to inspection by the committee constituted by the Tribunal.

We may also notice that the Hon'ble Supreme Court of India vide its order dated 22.05.2012 had directed that the State Government should continue to issue weighbridge certificate and maintain the weighbridges properly. Even in view of this order, the State must maintain weighbridges as per law.

(5) As already noticed earlier, huge extracted coal is lying in open and the same shall be permitted by the Government for transportation strictly in terms of these orders. The royalty collected by the State would be maintained under separate heads.

It is also undisputable that there has been huge environmental degradation and pollution of the waterbody in the State of Meghalaya, because of this illegal, unscientific mining. No one has even thought of restoration of the area in question, to bring to some

extent, if not completely, restoration of ecology and environment in question. Serious steps are required to be taken for cleaning polluted waterbodies and ensure that no further pollution is caused by this activity and the activity which would be permitted to be carried on finally including transportation of coal. On the basis of 'Polluter Pay Principle'. We direct that the State Government shall in addition to the royalty payable to it, shall also collect 10% on the market value of the coal for every consignment. Having heard the learned Counsel appearing for the parties and keeping in view the notifications of the Central Government dated 10.05.2012 and that of the State Government dated 22.06.2012, we may notice that in the report of Comptroller and Auditor General of India for the period ending 31st March, 2013 under 7.5.18 of Chapter 7 of which the invoice value of the coal has been taken Rs. 4850/- per metric tonne.

Thus, we direct that the State Government shall in addition to the royalty payable to it, also collect 10% of the said market value of the coal per metric tonne from each person. The amount so collected shall be deposited in the account to be titled as 'Meghalaya Environment Protection and Restoration Fund' to be maintained by the State under the direct control of the Chief Secretary of the State of Meghalaya.

This amount shall only be used for restoration of environment and for necessary remedial and preventive measures in regard to environment and matters related thereto.

We make it clear that this 10% of the additional

amount shall be payable by all persons who had transported the coal in the past or would transport in future, without exception. Such persons would be given fresh permission to transport extracted coal, only after they pay additional amount of 10% as directed under this order. We also direct the committee constituted under this order to place before the Tribunal any suggestion in regard to preventive steps that are required to be taken in respect of the coal, which has remained un-transported at the sites, to prevent pollution and ensure that no further degradation of environment occurs in that area within 6 weeks from today.

Vide our order dated 29th January, 2015 we had appointed commissioners to inspect the mining site in question and the places where coal had been stored. Keeping in view the load, nature of the work and other attendant circumstances, we appoint additional local Commissioners to visit the sites in question. The entire team of Commissioners appointed by the Tribunal is as follows:

1. Mr. J.P. Kharbhi, Adv.
2. Ms. Rosana Lyngdoh, Environmentalist
3. Mr. Vijay Pradhan, Environmentalist
4. Mr. Katdoh Rymbui, Retired SP
5. Mr. N. Bhattacharjee, Environmentalist
6. Mr. Daleep Kumar Dhyani, Adv.
7. Mr. Ajit Sharma, Adv.
8. Mr. Rajul Shrivastava, Adv
9. Mr. Narinder Pal Singh, Adv.
10. Mr. Karan Veer Khehar, Adv.
11. Mr. Karan Singh Chandhiok, Adv.
12. Mr. Tanmaya Mehta, Adv.

The above said Commissioners in pair of two each would visit the mining sites where the coal is stored, weighbridges sites, the trucks carrying coal and inspect all other matters directly or incidentally covered under the order of Tribunal. All the expenses of the Commissioners' including travelling, fee and other expenses shall be borne at the first instance by the State of Meghalaya and would be subject to further orders of the Tribunal. We make it clear that mine owners and mine workers, transporters who are found in the default would be liable to pay this amount and reimburse the State Government finally. The fee of the Commissioners, who had already been appointed, and belong to the State of Meghalaya, shall be Rs. 20,000/- per trip. While the advocates appointed from Delhi, who will have to go to the State of Meghalaya, shall be paid a sum of Rs. 35,000/- per trip. The inspection team consisting of two commissioners would submit their report directly to the Principal Bench of NGT in sealed cover.

We direct the administration and police authority to provide full protection and facility to the Commissioners who are going to visit the site in future.

Payment of royalty shall be permitted through RTGS as ordered earlier.

In terms of the challans of deposit of royalty, which had been issued by the State Government from time to time before the expiry of the time period granted, transportation can be permitted for a period of 6 weeks from today, however, upon payment of compensation of additional 10% of the value of the coal as aforesated.

All the persons including mine owners would be permitted to deposit royalty along with compensation as per Letter of Credit aslo.

For clarification, date for payment of royalty and compensation would be 3 weeks i.e. 21 days w.e.f. 25th March, 2015, both first and last day inclusive.

General Directions

We hereby direct that in the 308 cases which have already been registered by the State Government as the cases of illegal mining or transportation and in those cases, which may come to the notice of the State in future, the miners, whose agents, carriers/transporters or any other person are indicted therein shall be liable to pay three times the royalty amount to the State government. In other words, if the royalty on carriage is taken to be Rs. 675/- per MT then it would be Rs. 675x3= Rs. 2025 viz. Rs. 2025/- amount as royalty charged and the excess charged, shall be kept under the 'Meghalaya Environment Protection and Restoration Fund' to be utilized for restoration of environment.

Now we will revert to violation of the orders of the NGT on account of illegal mining and unauthorized transportation of coal carried out by the private individuals.

The Learned Local Commissioners have been appointed in different cases. However, for the present we would only confine ourselves to the case of Mr. Sarki Phawa. From the relevant abstract of the Local Commissioners report, which we have already reproduced, it has been specifically noticed that the Local

Commissioners found fresh coal being transported in the trucks and being stored at different sites. The commissioners have filed videography as well as photographs on record. From the photographs before us, it is clear that colour of the fresh coal is different from the other stored coal which certainly means that it was freshly extracted coal. Furthermore Mr. Sarki Phawa has not paid any royalty for transportation of coal. The truck also shows that no protection measures were taken for transportation of extracted coal in an eco-friendly manner. In fact, it is in flagrant violation of the commonly known environmental protection measures for carriage of coal. Unscientifically transportation of coal is bound to cause environmental pollution as the dust falls in the waterbodies near the passage through which such vehicles travel.

The Learned Counsel appearing for Mr. Sarki Phawa contended that photographs do not show any extraction of fresh coal. According to him, Mr. Sarki Phawa had carried coal from Chamcham to Kongyong Village which is 12 kms away and near to the National Highway No. 44. The Learned Counsel submitted that despite this, his client tenders unconditional apology.

Having perused report of the Local Commissioners and having heard the counsel appearing for Mr. Sarki Phawa, we find that there has been intentional violation of the directions of the Tribunal by him. Furthermore, he has polluted the environment and still he obviously brought the coal near to National Highway from where it could be taken to any other final destination. We find that

there is complete lack of bonafide on the part of Mr. Sarki Phawa who ought not to have violated orders of the Tribunal and carried on illegal mining at the risk of the life of the others and environment in terms of the public health and contamination of nature. We hold no sympathy and find that the apology has been tendered in order to primarily divert the attention of the Tribunal from the realm of violation to the field of sympathy. Resultantly we direct that Mr. Sarki Phawa will be liable to pay a sum of Rs. 5 Lakhs as compensation in terms of Section 15 of the NGT Act read with Section 20 of the Act. Till the time this amount is paid, the entire coal extracted and lying in his village Chamcham and Kongyong Village shall be seized and will be available for disposal subject to the orders of the Tribunal.

As regards the remaining defaulters we would take up the case subsequently.

List this matter on 16th April, 2015 at Shillong as the date already fixed.

.....,CP
(Swatanter Kumar)

.....,JM
(U.D. Salvi)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(Prof. A.R. Yousuf)

.....,EM
(B.S. Sajwan)